

ZB# 89-54

Moodna Development

80-4-1

Prelim.

Nov. 13, 1989.

#89-54- Moodna Development - rear yard - C.O.

80-4-1.

Assessor's
List ordered
10/30/89 - ready
11/3/89.

CCRD → notified
11/13/89.

Motion to schedule
P.H. - 11/13/89.

Una Varianel
approved - 11/27/89

General Receipt

11011

TOWN OF NEW WINDSOR

555 Union Avenue
New Windsor, N. Y. 12550

November 27, 19 89

Received of Mordna. Development Co. Inc. \$ 50.00

Fifty and 00/100 DOLLARS

For Zoning Board 89-53 and 89-54-Variance

DISTRIBUTION

FUND	CODE	AMOUNT
<u>CE # 2691</u>		<u>50.00</u>

By Pauline H. Townsend

Town Clerk

Title

Williamson Law Book Co., Rochester, N. Y. 14609



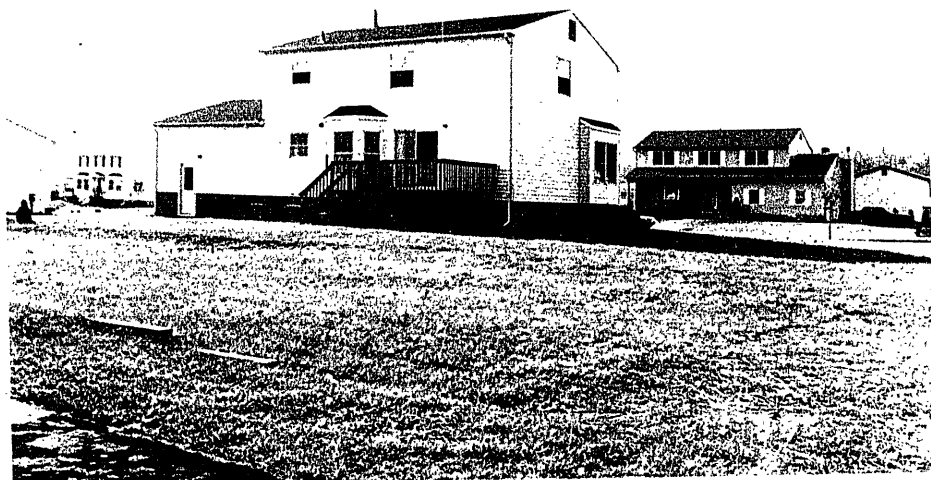
Ch [#] 2691	50.00

Williamson Law Book Co., Rochester, N. Y. 14609

Town Clerk

Title





... we have
... in the ...

NEW WINDSOR ZONING BOARD OF APPEALS

-----X

In the Matter of the Application of
MOODNA DEVELOPMENT COMPANY, INC.

DECISION GRANTING
AREA VARIANCE

#89-54.

-----X

WHEREAS, MOODNA DEVELOPMENT COMPANY, INC., a corporation having an office at 202 Butterhill Drive, New Windsor, N. Y. 12550, by its Vice President, Leigh K. Lydecker, Jr., has made application before the Zoning Board of Appeals for a 7.8 ft. rear yard variance to obtain a Certificate of Occupancy for a deck located at 202 Butterhill Drive, New Windsor, N. Y. in a CL (Cluster) zone; and

WHEREAS, a public hearing was held on the 27th day of November, 1989 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, Applicant's Vice President, Leigh K. Lydecker, Jr., appeared in behalf of the applicant corporation; and

WHEREAS, the application was unopposed; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the bulk regulations with regard to rear yard in order to obtain a Certificate of Occupancy for a deck constructed on a single-family residence in a CL zone.

3. The evidence presented by Applicant substantiated the fact that a variance for less than the allowable rear yard would be required in order for Applicant to obtain a Certificate of Occupancy for an existing deck which otherwise would conform to the bulk regulations contained in the CL zone and rejection of same would cause practical difficulty since the relief sought by Applicant is not substantial in relation to the required bulk regulations.

4. The evidence presented shows that the lot in question is located in a subdivision which was approved by the Planning Board as a cluster concept, thereby allowing a lesser amount of lot area than is usually required in the residential bulk regulations. The former Building Inspector issued a Certificate

of Occupancy for the house and deck, but the deck was not shown on the survey which was submitted to the former Building Inspector. Had the as-built deck been shown on the survey at the time, it would have appeared that a rear yard variance would have been required in order to save the C. O. When the applicant subsequently discovered this discrepancy, applicant sought a C.O. for the as-built deck, which was denied, and applicant then sought this rear yard variance.

5. Photographic evidence was presented by applicant which substantiated the fact that the requested variance will not result in substantial detriment to adjoining properties or change the character of the neighborhood.

6. The requested variance will produce no effect on the population density or governmental facilities.

7. That there is no other feasible method available to Applicant which can produce the necessary results other than the variance procedure.

8. The interest of justice would be served by allowing the granting of the requested variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 7.8 ft. rear yard variance sought by Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: December 11, 1989.

Chairman

(ZBA DISK#6-053085.FD)



Louis Helmbach
County Executive

Rec'd.
TA office
12/4/89

Department of Planning
& Development

124 Main Street
Goshen, New York 10924
(914) 294-5151

Peter Garrison, Commissioner
Richard S. DeTurk, Deputy Commissioner

ORANGE COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT
239 L, M or N Report

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and Countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by TOWN OF NEW WINDSOR ZBA D P & D Reference No. NWOT 46-89
County I.D. No. 80 1 4 1 1

Applicant: MODNA DEVELOPMENT COMPANY, INC.

Proposed Action: AREA VARIANCE (RETR. YD.) TO PERMIT SALE OF BUS IN RES. ZONE
State, County, Inter-Municipal Basis for 239 Review _____

Comments:

THERE ARE NO APPARENT MAJOR INTER AGENCY OR
INTER-MUNICIPAL PLANNING CONSIDERATIONS
AND/OR ISSUES TO BE BROUGHT TO YOUR ATTENTION

Related Reviews and Permits _____

County Action: Local Determination ☒ Disapproved _____ Approved _____

Approved subject to the following modifications and/or conditions: _____

Nov. 22, 1989
Date

Peter Garrison
Commissioner

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals
of the TOWN OF NEW WINDSOR, New York will hold a
Public Hearing pursuant to Section 48-34A of the
Zoning Local Law on the following proposition:

Appeal No. 54

Request of MOODNA DEVELOPMENT COMPANY, INC.

for a VARIANCE of

the regulations of the Zoning Local Law to

permit existing deck with insufficient rear yard
setback;

being a VARIANCE of

Section 48-12 - Table of Use/Bulk Regulations-Col. G

for property situated as follows:

Corner Butterhill Drive and Guernsey Drive,

New Windsor, N. Y. known and designated as tax map

Section 80 - Block 4 - Lot 1.

SAID HEARING will take place on the 27th day of
November, 1989, at the New Windsor Town Hall,
555 Union Avenue, New Windsor, N. Y. beginning at
7:30 o'clock P. M.

JAMES NUGENT
Chairman

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE OR SPECIAL PERMIT

89-54

Date: 11/06/89

I. Applicant Information: MOODNA DEVELOPMENT COMPANY, INC.

- (a) 202 Butterhill Drive, P. O. Box 4407, New Windsor, N.Y. 12550 x
(Name, address and phone of Applicant) (Owner)
- (b) -
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) -
(Name, address and phone of broker)

II. Application type:

- ☐ Use Variance ☐ Sign Variance
- ☒ Area Variance ☐ Interpretation.

III. Property Information:

- (a) CL 202 Butterhill Drive 80-4-1 112 x 130
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? n/a
- (c) Is a pending sale or lease subject to ZBA approval of this application? Yes
- (d) When was property purchased by present owner? 1985
- (e) Has property been subdivided previously? No When? -
- (f) Has property been subject of variance or special permit previously? No When? -
- (g) Has an Order to Remedy Violation been issued against the property by the Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a

IV. Use Variance: n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____
- _____
- _____
- _____

- (b) ^{n/a} The legal standard for a "Use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. Area variance:

- (a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Blk. Regs., Col. G.

Requirements	Proposed or Available	Variance Request
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.	/	/
Reqd. Rear Yd.	40'	32.2'
Reqd. Street Frontage*		7.8'
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage*	%	%
Floor Area Ratio**		

* Residential Districts only

** Non-residential districts only

- (b) The legal standard for an "AREA" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also, set forth any efforts you have made to alleviate the difficulty other than this application.

The lot in question is located in a CL (Cluster) zone and all lot sizes were approved at the time of subdivision approval by Planning Board. Applicant feels that the requested variance is not substantial with relation to the requirement in the bulk regulations for CL zone; there will be little or no increase in the population density; there will be no change in the characteristics of the neighborhood; there is no other feasible method for Applicant to pursue other than variance; the interest of

VI. Sign Variance: justice will be served by allowing the variance requested.

- (a) Variance requested from New Windsor Zoning Local Law, ^{n/a} Section _____, Table of _____ Regs., Col. _____.

	Requirements	Proposed or Available	Variance Request
Sign 1			
Sign 2			
Sign 3			
Sign 4			
Sign 5			
Total	_____ sq.ft.	_____ sq.ft.	_____ sq.ft.

n/a

- (b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or oversize signs.

- (c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation: n/a

- (a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

- (b) Describe in detail the proposal before the Board:

VIII. Additional comments:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

Applicant has been utilizing one-family residential dwelling as an office and now desires to offer same for sale. Since dwelling is located in a residential zoning district, the quality of the neighborhood will be maintained.

IX. Attachments required:

- x Copy of letter of referral from Bldg./Zoning Inspector.
x Copy of tax map showing adjacent properties.
n/a Copy of contract of sale, lease or franchise agreement.
x Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot.
n/a Copy(ies) of sign(s) with dimensions.
x Check in the amount of \$25.00 payable to TOWN OF NEW WINDSOR.
x Photos of existing premises which show all present signs and landscaping.

X. AFFIDAVIT

Date 11/13/89

STATE OF NEW YORK)
COUNTY OF ORANGE) SS.:

The undersigned Applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his knowledge or to the best of his information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance or permit granted if the conditions or situation presented herein are materially changed.

Leigh K. Lydecker, Jr.
(Applicant)
MOODNA DEVELOPMENT COMPANY, INC.
By: Leigh Lydecker, Jr.

Sworn to before me this

8th day of November, 1989.

Patricia A. Barnhart
PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1990

XI. ZBA Action:

- (a) Public Hearing date _____.
- (b) Variance is _____.
- Special Permit is _____.
- (c) Conditions and safeguards: _____
- _____
- _____
- _____

A FORMAL DECISION WILL FOLLOW
WHICH WILL BE ADOPTED BY
RESOLUTION OF ZONING BOARD OF APPEALS.



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK

Prelim.

Nov. 13

89-54

1763 NOTICE OF DISAPPROVAL OF BUILDING PERMIT

FILE NUMBER 89-42

TO: MOODNA DEVELOPMENT

P.O. BOX 4407

202 BUTTERHILL DR.

NEW WINDSOR, N.Y. 12550

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 30 OCT 89,

FOR PERMIT TO RECIEVE C.O. FOR DECK

AT CORNER OF BUTTERHILL & GUERNSEY DR IS DISSAPROVED ON THE
FOLLOWING GROUNDS INSUFFICIENT REAR YARD SETBACKS

ZONE	CL	TYPE OF VARIANCE	AREA
REQUIREMENTS		PROPOSED	VARIANCE
REAR YARD	40'	32.2'	7.8'

CALL PAT BARNHART (ZBA SECRETARY) AT 565-8550 FOR APPOINTMENT

Pat Barnhart

BUILDING/ZONING INSPECTOR

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....
 Approved.....19.....
 Disapproved a/c.....
 Permit No.

Office of Building Inspector
 Michael L. Babcock
 Town Hall, 555 Union Avenue
 New Windsor, New York 12550
 Telephone 565-8807

Refer —
 Planning Board.....
 Highway.....
 Sewer.....
 Water.....
 Zoning Board of Appeals

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

- This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- The work covered by this application may not be commenced before the issuance of a Building Permit.
- Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

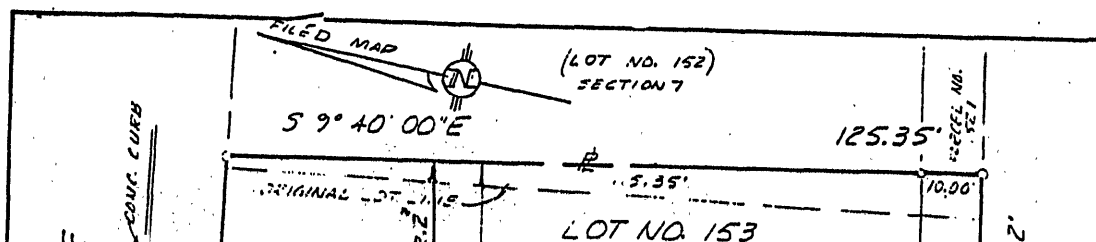
Leigh K. Lydecker, Jr.
 (Signature of Applicant)

Moodna Development Company, Inc.
 202 Butterhill Drive, New Windsor, N.Y.
 (Address of Applicant)

Leigh K. Lydecker, Jr., Builder

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.
 Applicant must indicate the building line or lines clearly and distinctly on the drawings.



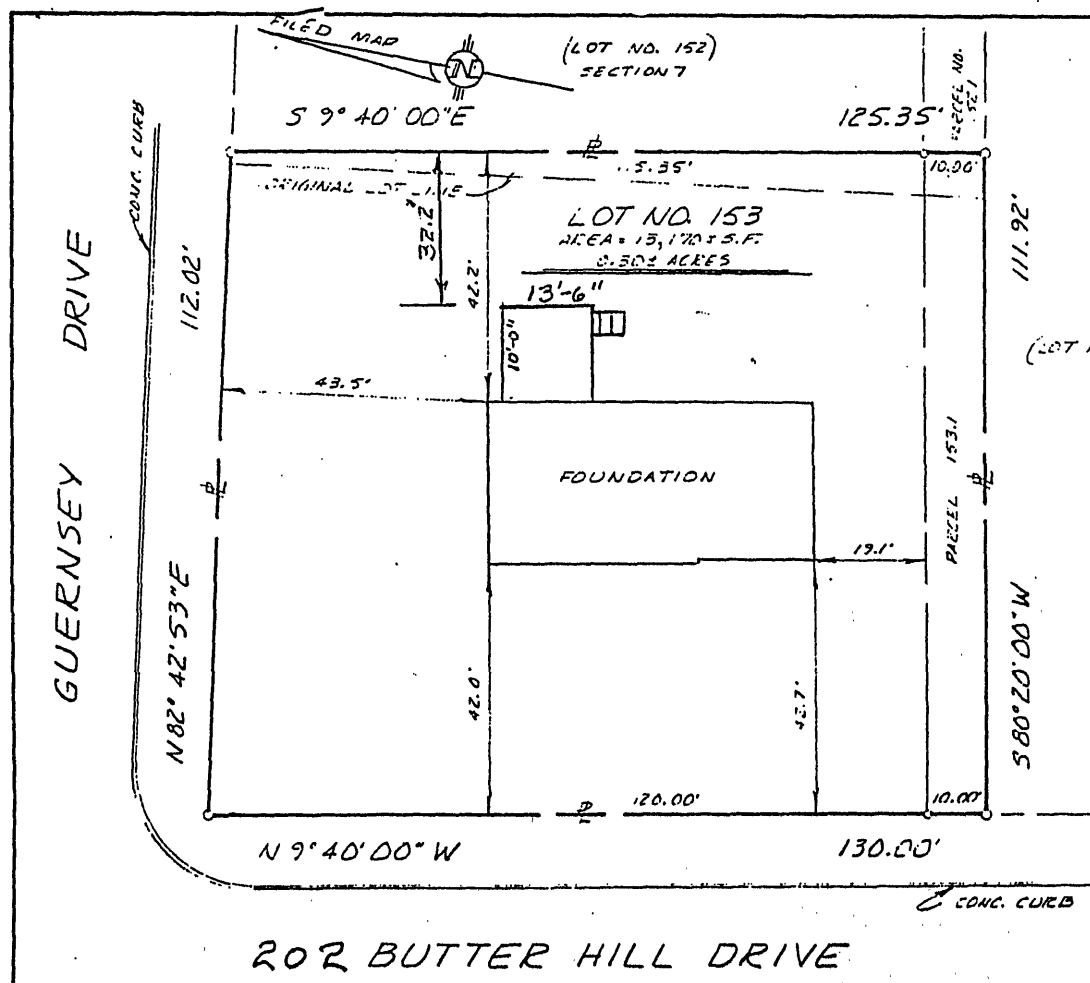
- a. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
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.....
 (Signature of Applicant) Moodna Development Company, Inc.
 202 Butterhill Drive, New Windsor, N.Y.
 (Address of Applicant)

Leigh K. Lydecker, Jr., Builder

NOTE: Locate all buildings and indicate all set-back dimensions.
Applicant must indicate the building line or lines clearly and distinctly on the drawings.



Name of Owner of Premises Moodna Development Company, Inc.
Address..... P.O. Box 4407 202 Butterhill Drive New Windsor, N.Y. 12550 (914) 561-3194
Name of Architect..... same
Address..... same Phone
Name of Contractor same
Address..... Phone

State whether applicant is owner, lessee, agent, architect, engineer or builder.....
If applicant is a corporation, signature of duly authorized officer.

..... Leigh K. Lydecker, Jr.
(Name and title of corporate officer)
Leigh K. Lydecker, Jr., Builder, Moodna Development Co.

1. On what street is property located? On the EAST side of BUTTERHILL DRIVE
(N. S. E. or W.)
and 0 feet from the intersection of GUERNSEY DRIVE
2. Zone or use district in which premises are situated R-4
~~A Portion of 37-1-50-121 Known as Section 10 LOT #~~
3. Tax Map description of property: Section 80 Block 4 Lot 7
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction:
a. Existing use and occupancy (OFFICE) SINGLE FAMILY HOME vacant lot
b. Intended use and occupancy dwelling
5. Nature of work (check which applicable): New Building ~~#~~ Addition..... Alteration..... Repair..... Removal.....
Demolition..... Other EXISTING DECK BUILT IN FEB. 1985
6. Size of lot: Front 120 ^{DEPT} 112.02 Rear 111.92 ^{REAR} 125 Front Yard 40 Rear Yard 40 Side Yard 12
Is this a corner lot? YES
DECK 10' X 13' 6"
7. Dimensions of entire new construction: Front..... Rear..... Depth..... Height..... Number of stories.....
8. If dwelling, number of dwelling units 1..... Number of dwelling units on each floor.....
Number of bedrooms N/A Baths N/A Toilets N/A
Heating Plant: Gas N/A Oil..... Electric...../Hot Air..... Hot Water N/A
If Garage, number of cars N/A
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use.....
10. Estimated cost \$1200.00 Fee \$20.00
(to be paid on filing this application)

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

IMPORTANT

REQUIRED INSPECTIONS OF CONSTRUCTION — YOU MUST CALL FOR THESE

..... But the as listed below must be made or Certificate of Occupancy may be

State whether applicant is owner, lessee, etc.
If applicant is a corporation, signature of duly authorized officer.

Leigh K. Lydecker, Jr.
(Name and title of corporate officer)
Leigh K. Lydecker, Jr., Builder, Moodna Development Co.

1. On what street is property located? On the EAST side of BUTTER HILL DRIVE
(N. S. E. or W.)
and 0 feet from the intersection of GUERNSEY DRIVE
2. Zone or use district in which premises are situated R-4
A Portion of 37-1-10-121 known as Section 10 LOT #
3. Tax Map description of property: Section 80 Block 4 Lot 1
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction:
a. Existing use and occupancy (OFFICE) SINGLE FAMILY HOME
b. Intended use and occupancy dwelling
5. Nature of work (check which applicable): New Building X Addition..... Alteration..... Repair..... Removal.....
Demolition..... Other EXISTING DECK BUILT IN FEB. 1985
6. Size of lot: Front 120 Depth 112.02 Rear 111.92 Side 125 Front Yard 40 Rear Yard 40 Side Yard 12
Is this a corner lot? YES
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Number of bedrooms N/A Baths N/A Toilets N/A
Heating Plant: Gas N/A Oil..... Electric...../Hot Air..... Hot Water N/A
If Garage, number of cars N/A
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(to be paid on filing this application)

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

IMPORTANT

REQUIRED INSPECTIONS OF CONSTRUCTION — YOU MUST CALL FOR THESE

Other inspections will be made in most cases, but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections, it has not been approved, and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

CALL ONE DAY AHEAD FOR ALL INSPECTIONS TO AVOID DELAYS — 565-8807

- 1—When excavating is complete and footing forms are in place (before pouring).
- 2—Foundation Inspection - check here for waterproofing and footing drains.
- 3—Inspect gravel base under concrete floors, and underslab Plumbing.
- 4—When framing is completed, and before it is covered from inside, and Plumbing rough-in.
- 5—Plumbing final & final. Have on hand Electrical Inspection Data per the Board of Fire Underwriters, and final certified plot plan. Building is to be complete at this time.
- 6—Driveway inspection must meet approval of town Highway Inspector.
- 7—\$20.00 charge for any site that calls for the same inspection twice.

B.

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION
(Variances, Zone Changes, Special Permits, Subdivisions)

Section A. - To be completed by Local Board having jurisdiction.
To be signed by Local Official.

Local File No. 89-54

1. Municipality TOWN OF NEW WINDSOR Public Hearing Date 11/27/89

☐ City, Town or Village Board ☐ Planning Board ☒ Zoning Board of Appeals

2. Applicant: NAME MOODNA DEVELOPMENT COMPANY, INC.

Address 202 Butterhill Drive, New Windsor, N. Y. 12550

Attorney, Engineer, Architect -

3. Location of Site: 202 Butterhill Drive, New Windsor, N. Y. (Butterhill Subdivision)
(street or highway, plus nearest intersection)

Tax Map Identification: Section 80 Block 4 Lot 1

Present Zoning District CL (CLUSTER) Size of Parcel 112 x 115 ±

4. Type of Review:

☐ Special Permit Use*

☒ Variance* Use

Area - Existing Deck requires C.O.-Rear yard variance required.

☐ Zone Change* From: To:

☐ Zoning Amendment* To Section:

☐ Subdivision** Major Minor

11/13/89
Date

Dorinda Albright, Sec'y.
Signature and Title

*Cite Section of Zoning Regulations where pertinent.

**Three (3) copies of map must be submitted if located along County Highway, otherwise, submit two (2) copies of map.

OCPD-1